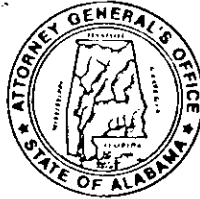


82-00084

# OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

NOV 18 1981

JAMES R. SOLOMON, JR.  
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.  
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WALTER S. TURNER  
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64 NORTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (205) 834-5150

Honorable J. Harold Richards  
Sheriff of DeKalb County  
DeKalb County Courthouse  
Fort Payne, AL 35967

Sheriffs - Service of Process  
and Summons - Deputy Sheriffs

The only persons authorized to  
serve civil process are Sheriffs,  
Deputy Sheriffs, Constables and  
persons designated by a Court  
pursuant to Rule 4.1(b)(2) ARCP.

Dear Sheriff Richards:

This letter is in response to your letter of October  
13, 1981, in which you request an opinion as follows:

"may the county commission or  
myself classify this individual  
as a process server so as to  
allow him to continue to serve  
various documents such as summons  
and complaints, writs of seizure,  
etc., and also continue to serve  
as a courtroom bailiff [sic] to  
provide assistance to judges,  
and to allow him to continue to  
transfer prisoners, juveniles

Honorable J. Harold Richards  
Sheriff of DeKalb County  
Page 2.

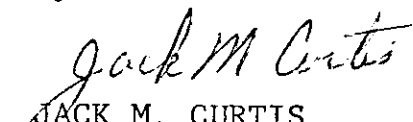
and mental patients without being in violation of Peace Officers Standards Training Act?' If he may continue to serve as a deputy, what restrictions will be placed upon him in that capacity?"

The only persons authorized to serve civil process are Sheriffs, Deputy Sheriffs, Constables and persons designated by a Court pursuant to Rule 4.1(b)(2) ARCP. Informal Opinion of the Attorney General, October 27, 1981. (copy attached) An individual who serves in a position as a Deputy Sheriff is required by law to meet the requirements of the Peace Officers Standards and Training Act. Code of Alabama 1975, § 36-21-40(4). A person thus can not serve in a position as a Deputy Sheriff and perform the duties of a Deputy Sheriff without meeting the requirements of the Peace Officers Standards and Training Act.

I trust I have fully answered your inquiry with regard to this matter.

Sincerely,

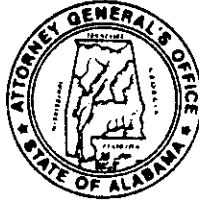
CHARLES A. GRADDICK  
Attorney General  
By-

  
JACK M. CURTIS  
Assistant Attorney General

JMC:db

Enclosure:

# OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

OCT 27 1981

JAMES R. SOLOMON, JR.  
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Honorable Jessie O. Bryan  
District Attorney  
2nd Judicial Circuit  
Butler County Courthouse  
Greenville, AL 36037

Sheriffs - Minimum Standards  
and Training Commission -  
Law Enforcement

The only persons authorized to  
serve civil process are Sheriffs,  
Deputy Sheriffs, Constables and  
persons designated by a Court  
pursuant to Rule 4.1(b)(2) ARCP.

Dear Mr. Bryan:

This letter is in response to your letter of September  
16, 1981 in which you request an opinion as follows:

"Can the Crenshaw County Sheriff  
and/or Crenshaw County Commission  
employ or appoint a person whose  
duties would be limited to serving  
service of process and whose duties  
would not include the power of arrest  
if that person did not meet the  
minimum standards for applicants  
and appointees for employment as law  
enforcement officers as set out in  
§36-21-46, Code of Alabama?"

Honorable Jessie O. Bryan  
District Attorney  
2nd Judicial Circuit  
Page 2.

Rule 4.1(b)(1) of the Alabama Rules of Civil Procedure provides that personal service of process is to be made by the Sheriff or Constable. The only exception to this provision is found in Rule 4.1(b)(2) which provides for personal service of process by a person designated by the Court in a particular case. O'Donohue v. Citizens Bank, 350 So. 2d 1049 (Ala. Civ. App. 1977).

Thus the only person in the Sheriff's Office who could serve process would be the Sheriff or an individual deputized by the Sheriff and having the authority of the Sheriff. Such an individual would have to meet the requirements of the Peace Officers Standards and Training Act. Code of Alabama 1975, § 36-21-40(41).

I trust I have fully answered your inquiry with regard to this matter.

Sincerely yours,

CHARLES A. GRADDICK  
Attorney General  
By-

*Jack M. Curtis*

JACK M. CURTIS  
Assistant Attorney General

JMC:db